



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-874]

Certain Hot-Rolled Steel Flat Products from Japan: Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from Nippon Steel Corporation (NSC), the Department of Commerce (Commerce) is initiating a changed-circumstances review (CCR) of the antidumping duty (AD) order on certain hot-rolled steel flat products (hot-rolled steel) from Japan and preliminarily finds that NSC is the successor-in-interest to Nippon Steel & Sumitomo Metal Corporation (NSSMC) and is assigning to NSC the same AD cash deposit rate that Commerce has assigned to NSSMC in this proceeding.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Leo Ayala or Jun Jack Zhao, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3945 or (202) 482-1396, respectively.

SUPPLEMENTARY INFORMATION

Background

On October 3, 2016, Commerce published in the *Federal Register*, the AD Order on certain hot-rolled steel from Japan.¹

¹ See *Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for*

On April 1, 2019, NSC requested that Commerce conduct a CCR pursuant to 751(b) of the Tariff Act of 1930, as amended (the Act), and section 351.216 (b) of Commerce's regulations.² NSC provided information in its request indicating that it is the successor-in-interest to NSSMC. NSC also provided information indicating that two affiliated entities that Commerce had previously treated as a single entity with NSSMC, Nisshin Steel Co., Ltd. (Nisshin Steel), and Nippon Steel & Sumikin Bussan Corporation (NSSBC),³ had changed their trade names to Nippon Steel Nisshin Co., Ltd. (Nippon Nisshin) and Nippon Steel Trading Corporation (NSTC),⁴ respectively.⁵ NSC maintains that Nippon Nisshin and NSTC are currently part of the same business entity as NSC. NSC, therefore, requested that Commerce conduct a CCR to determine that NSC, Nippon Nisshin, and NSTC are affiliated companies that should be treated as a single entity and treated as the successor-in-interest to NSSMC. No parties commented on this CCR request.

Scope of the Order

The products covered by this order are hot-rolled steel flat products from Japan. For a full description of the scope of the order, *see* the "Scope of the Order," at the Appendix to this notice.

Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders, 81 FR 67962 (October 3, 2016) (*Order*).

² *See* NSC's Letter, "Certain Hot-Rolled Steel Flat Products from Japan: NSC's Request for Changed Circumstances Review," dated April 1, 2019 (NSC's CCR Request).

³ *See Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determinations*, 81 FR 15222 (March 22, 2016), and accompanying Preliminary Decision Memorandum (PDM) at 7-8 (finding that NSSMC and NSSBC should be treated as an affiliated single entity), unchanged in the *Certain Hot-Rolled Steel Flat Products from Japan: Final Determination of Sales at Less than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 53409 (August 12, 2016); *see also Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2016-2017*, 83 FR 56813 (November 14, 2018) and accompanying PDM at 9 (finding that NSSMC and Nisshin Steel should be treated as an affiliated single entity), unchanged in *Certain Hot-Rolled Steel Flat Products from Japan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017*, 84 FR 125 (June 28, 2019) and accompanying Issues and Decision Memorandum (IDM) at 20.

⁴ *See* NSC's CCR Request at Exhibit 3.

⁵ *Id.* at 2, Exhibit 1, and Exhibit 3.

Initiation and Preliminary Results

Pursuant to section 751(b)(1) of the Act, Commerce will conduct a CCR upon receipt of information concerning, or a request from, an interested party for a review of, an AD order which shows changed circumstances sufficient to warrant a review of the order. As indicated in the Background section, we have received information indicating that NSSMC has changed its name to NSC, and that certain affiliated companies should be treated as a single entity and the successor-in-interest to NSSMC. These constitute changed circumstances warranting a review of the AD Order. Therefore, in accordance with section 751(b)(1) of the Act, we are initiating a CCR based upon the information contained in NSC's submissions.

Section 351.221(c)(3)(ii) of the regulations permits Commerce to combine the notice of initiation of a CCR and the notice of preliminary results if Commerce concludes that expedited action is warranted. In this instance, because we have on the record the information necessary to make a preliminary finding, we find that expedited action is warranted and have combined the notice of initiation and the notice of preliminary results.

In making successor-in-interest determinations, Commerce examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.⁶ While no single factor, or combination of factors, will necessarily prove dispositive, Commerce will generally consider the new company to be the successor to its predecessor company if the resulting operations are essentially the same as the predecessor company.⁷ Thus, if the evidence demonstrates that, with respect to the production

⁶ See, e.g., *Polychloroprene Rubber from Japan: Final Results of Changed Circumstances Review*, 67 FR 58 (January 2, 2002), citing *Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992).

⁷ *Id.*, citing *Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944, 6945 (February 14, 1994).

and sale of the subject merchandise, the new company operates as the same business entity as its predecessor, Commerce will assign the new company the cash deposit rate of its predecessor.

In its April 1, 2019, submission, NSC stated that it merely changed its name to NSC from NSSMC, and that NSSMC is the identical company to NSC. In addition, NSC maintains that Nippon Nisshin and NSTC are currently part of the same business entity as NSC. As such, NSC states that its entity's management, production facilities, supplier relationships, and customer relationships have not changed. To support its claims, NSC submitted numerous documents, including: (1) a copy of a letter to shareholders amending the name of NSSMC to NSC and amending the name of Nisshin Steel, a NSSMC subsidiary, to Nippon Nisshin;⁸ (2) a copy of the Notice of Resolution of the 41st Annual General Meeting of Shareholders of NSSMC adopting the modification of NSC's corporate name;⁹ (3) a copy of the Notice of Resolution of the 94th General Meeting of Shareholders of NSSBC adopting the modification of NSTC's corporate name;¹⁰ (4) an outline of NSSMC/NSC's production facilities indicating no changes were made to these production facilities as a result of the name change;¹¹ (5) an outline of Nisshin Steel/Nippon Nisshin's production facilities indicating no changes were made to these production facilities as a result of the name change;¹² (6) a list of Board Directors and Audit & Supervisory Board Members of NSSMC/NSC, Nisshin Steel/Nippon Nisshin and NSSBC/NSC, before and after the effective date of each company's name change, indicating no changes of members;¹³ and (7) a list of the top 10 shareholders of NSSMC/NSC, Nisshin Steel/Nippon Nisshin, and NSSBC/NSTC, before and after the effective date of each company's name change,

⁸ See NSC's CCR Request at Exhibit 1.

⁹ *Id.* at Exhibit 2.

¹⁰ *Id.* at Exhibit 3.

¹¹ *Id.* at Exhibit 4.

¹² *Id.* at Exhibit 5. Further, we note that NSSBC/NSTC is a trading company with no production facilities.

¹³ *Id.* at Exhibit 6.

indicating no significant changes in shareholder ratios.¹⁴ Further, the respondent provided NSSMC/NSC's, Nisshin Steel/Nippon Nisshin's and NSSBC/NSTC's customer base¹⁵ and a list of each company's respective supplier relationships,¹⁶ confirming that each company's customer base and supply sources are unchanged from those of its predecessor.

Our analysis indicates that NSC's management, major shareholders, production facilities, supplier relationships, and customer base have not changed as a result of its name change. Similarly, our analysis indicates that Nippon Nisshin's management, major shareholders, production facilities, supplier relationships, and customer base have not changed, as a result of its name change. Finally, our analysis indicates that NSTC has not made changes to its management, major shareholders, supplier relationships, and customer base as a result of its name change. Thus, we preliminarily find that: 1) NSC is the successor in interest to NSSMC; 2) Nippon Nisshin is the successor in interest to Nisshin Steel; and 3) NSTC is the successor in interest to NSSBC.

As noted above Commerce has previously determined that NSSMC, Nisshin Steel and NSSBC should be treated as a single entity.¹⁷ On this basis, we preliminarily find that NSC,

¹⁴ *Id.* at Exhibit 7.

¹⁵ *Id.* at Exhibit 8.

¹⁶ *Id.* at Exhibit 9.

¹⁷ We collapsed Nippon Steel & Sumikin Bussan Corporation with Nippon Steel & Sumitomo Metal Corporation in the underlying investigation. See *Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination*, 81 FR 15222 (March 22, 2016) and accompanying PDM at 7-8, unchanged in the *Certain Hot-Rolled Steel Flat Products from Japan: Final Determination of Sales at Less than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 53409 (August 12, 2016) (*Final Determination*), and accompanying IDM. We also collapsed Nisshin Steel with NSSMC as of March 13, 2017. See *Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2016-2017*, 83 FR 56813 (November 14, 2018), and accompanying PDM at 9, unchanged in *Certain Hot-Rolled Steel Flat Products from Japan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017*, 84 FR 31025 (June 28, 2019) and accompanying IDM at 20.

including Nippon Nisshin and NSTC, should receive the same AD cash deposit rate (*i.e.*, 4.99 percent)¹⁸ with respect to the subject merchandise as NSSMC, its predecessor company.

If these preliminary results are adopted in the final results of this CCR, we will instruct Customs and Border Protection to continue to suspend shipments of subject merchandise made by NSC at NSSMC's cash deposit rate.

Public Comment

Any interested party may request a hearing within 30 days of publication of this notice.¹⁹ Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first working day thereafter. Interested parties may submit case briefs and/or written comments not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, which must be limited to issues raised in such briefs or comments, may be filed not later than 37 days after the date of publication of this notice. Parties who submit arguments are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Consistent with section 351.216(e) of Commerce's regulations, we will issue the final results of this changed circumstances review no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary finding. We are issuing and publishing this finding and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and section 351.216 of Commerce's regulations.

Administrative Protective Order

This notice is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed

¹⁸ See *Final Determination* IDM at 5.

¹⁹ See 19 CFR 351.310(c).

under APO in accordance with section 351.305(a)(3) of Commerce's regulations. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

Commerce is issuing and publishing these results in accordance with sections 751(b)(1) and (4) and 777(i) of the Act, and sections 19 CFR 351.216 and 351.221(c)(3)(i).

Dated: July 15, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix

Scope of the Order

The products covered by the scope are certain hot-rolled, flat-rolled steel products, with or without patterns in relief, and whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of thickness, and regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

- (1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above unless the resulting measurement makes the product covered by the existing antidumping²⁰ or countervailing duty²¹ orders on Certain Cut-To-Length Carbon-Quality Steel Plate Products From the Republic of Korea (A-580-836; C-580-837), and
- (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or

²⁰ See Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products from France, India, Indonesia, Italy, Japan and the Republic of Korea, 65 FR 6585 (February 10, 2000).

²¹ See Notice of Amended Final Determinations: Certain Cut-to-Length Carbon-Quality Steel Plate from India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea, 65 FR 6587 (February 10, 2000).

- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, the substrate for motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes hot-rolled steel that has been further processed in a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope if performed in the country of manufacture of the hot-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope unless specifically excluded. The following products are outside of and/or specifically excluded from the scope:

- Universal mill plates (*i.e.*, hot-rolled, flat-rolled products not in coils that have been rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, of a thickness not less than 4.0 mm, and without patterns in relief);
- Products that have been cold-rolled (cold-reduced) after hot-rolling;²²
- Ball bearing steels;²³

²² For purposes of this scope exclusion, rolling operations such as a skin pass, levelling, temper rolling or other minor rolling operations after the hot-rolling process for purposes of surface finish, flatness, shape control, or gauge control do not constitute cold-rolling sufficient to meet this exclusion.

²³ Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

- Tool steels;²⁴ and
- Silico-manganese steels;²⁵

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.10.1500, 7208.10.3000, 7208.10.6000, 7208.25.3000, 7208.25.6000, 7208.26.0030, 7208.26.0060, 7208.27.0030, 7208.27.0060, 7208.36.0030, 7208.36.0060, 7208.37.0030, 7208.37.0060, 7208.38.0015, 7208.38.0030, 7208.38.0090, 7208.39.0015, 7208.39.0030, 7208.39.0090, 7208.40.6030, 7208.40.6060, 7208.53.0000, 7208.54.0000, 7208.90.0000, 7210.70.3000, 7211.14.0030, 7211.14.0090, 7211.19.1500, 7211.19.2000, 7211.19.3000, 7211.19.4500, 7211.19.6000, 7211.19.7530, 7211.19.7560, 7211.19.7590, 7225.11.0000, 7225.19.0000, 7225.30.3050, 7225.30.7000, 7225.40.7000, 7225.99.0090, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.5000, 7226.91.7000, and 7226.91.8000. The products subject to the scope may also enter under the following HTSUS numbers: 7210.90.9000, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7214.99.0060, 7214.99.0075, 7214.99.0090, 7215.90.5000, 7226.99.0180, and 7228.60.6000.

The HTSUS subheadings above are provided for convenience and U.S. Customs and Border Protection (CBP) purposes only. The written description of the scope is dispositive.

²⁴ Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

²⁵ Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

